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इस भाग में भिन्न पृष्ठ संख्या दी जाती है जिससे कि यह अलग संकलन के रूप में रखा जा सके ।
Separate paging is given to this Part in order that it may be filed as a separate compilation

LOK SABHA

The following Bills were introduced in Lok Sabha on 24th February, 1994:—

BILL No. 105 OF 1993

A Bill further to amend the Constitution of India.

BE IT enacted by Parliament in the Forty-fourth Year of the Republic of India as follows.—

1 This Act may be called the Constitution (Amendment) Act, 1993 — Short title

2 In article 29 of the Constitution, clause (2) shall be omitted — Amendment of article 29

3. After article 29 of the Constitution, the following article shall be inserted, namely.— — Insertion of new article 29A

"29A. (1) No citizen shall be denied admission into any educational institution maintained by the State or receiving aid out of the State funds and which is meant for public in general. — Right to admission in educational institutions

(2) The State shall provide free education to every citizen upto the secondary school level."

Substitution of new article for article 45.

4. For article 45 of the Constitution, the following article shall be substituted, namely:—

Provision of compulsory secondary education to children, etc.

"45. (*1*) The State shall, within a period of five years from the commencement of the Constitution (Amendment) Act, 1993, take steps in the direction of—

(*a*) making it compulsory of all children to attend school till they complete their secondary school level education;

(*b*) eradication of illiteracy in the country;

(*c*) introduction of compulsory professional courses in the syllabus of classes sixth to tenth in all schools recognised by the State;

(*d*) prohibition on employment of children till they attain the age of eighteen years or till they complete the secondary school education, whichever is later;

(*e*) enacting a law providing for strict penal action against any employer who employs any such child as in referred to in clause (*d*); and

(*f*) **provision of financial assistance and such other incentives to the parents of such children, as the State may deem fit for discouraging the parents from sending their children, referred to in clause (*d*), for employment.**

(*2*) **The State shall take effective steps to open adequate number of schools and create necessary infrastructure for ensuring free and compulsory education to all children till they complete secondary school level education.**".

STATEMENT OF OBJECTS AND REASONS

Although our country has completed forty-six years of independence yet the national goals of providing free and compulsory education to all children and eradication of illiteracy have not been achieved. The Constitution of India guarantees the citizens to enjoy certain fundamental rights and lays down certain Directive Principles of State Policy to be followed by the State for the welfare of its citizens. But, unfortunately, even after fortysix years of independence, a large section of our society does not even know the rights they enjoy under the Constitution because of illiteracy. For enabling the country to go forward in the post-independence era, the founding fathers of the Constitution incorporated the provision of free and compulsory education in the chapter on Directive Principles of State Policy

The Bill, therefore, attempts to removing illiteracy to provide free and compulsory secondary education to all children and to make the principle of providing free and compulsory education more effective in order to achieve the goals of, total literacy and free education.

Hence this Bill.

NEW DELHI;
August 20, 1993.

ANKUSHRAO RAOSAHEB TOPE.

FINANCIAL MEMORANDUM

Clause 3 of the Bill provides that the State shall provide to all citizens free education upto the secondary school level. Clause 4 provides that the State shall, within a period of five years from the commencement of the Constitution (Amendment) Act, 1993, take steps in the direction of providing financial assistance and such other incentives to the parents of such children, as the State may deem fit. A large section of the citizens in the country are poor and implementation of these provisions would require a lot of expenditure as adequate number of schools and educational institutions would have to be opened and many poor children would have to be given incentives in order to ensure their regular attendance in the schools. As regards the expenditure by the States, some assistance will have to be provided by the Central Government to the States for carrying out the purposes of this Bill.

The Bill, therefore, if enacted, will involve expenditure from the Consolidated Fund of India. It is likely to involve a recurring expenditure of about rupees two hundred crore per annum.

It is also likely to involve a non-recurring expenditure of rupees five hundred crore.

BILL No. 110 OF 1993

A Bill further to amend the Constitution of India.

BE it enacted by Parliament in the Forty-fourth Year of the Republic of India as follows:—

Short title and commencement.

1. (*1*) This Act may be called the Constitution (Amendment) Act, 1993.

(*2*) It shall come into force on such date as the Central Government may, by, notification in the Official Gazette, appoint.

Amendment of article 15.

2. In article 15 of the Constitution, in clause (*4*)

(*i*) for the words 'any socially and educationally backward classes of citizens or for the Scheduled Castes and Scheduled Tribes', the words "any identifiable social group which is politically under-represented in the legislatures or educationally and economically backward as compared to the national average or which is subject to social discrimination or social disability in any form" shall be substituted; and

(*ii*) the following provisos shall be added at the end, namely:—

"Provided that the benefit under this clause available to any backward social group at any level shall be in proportion to both its population at that level and its level of backwardness, as determined decennially:

Provided further that in selecting the individual beneficiaries from within a backward social group, the individuals who belong to families whose educational or economic level is lower than the level of the social group as a whole shall receive priority."

Amendment of article 160.

3. In article 16 of the Constitution, in clause (*4*), for the words "any backward class of citizens", the words "any identifiable social group" shall be substituted..

STATEMENT OF OBJECTS AND REASONS

Article 15(4) and 16 (4) of the Constitution provide for protective discrimination in favour of backward classes. However, its phraseology has given rise to much confusion as well as to injustice in as much as other social groups, which are equally backward in economic, educational and social terms, have been deprived of the benefits under this dispensation. The use of the word 'class' has also been misinterpreted. What was intended was to assess whether an identifiable social group is backward in relation to the nation or the people of the State as a whole and then take appropriate steps to lift it out of backwardness by concentrating convergent measures for its uplift. The term social backwardness has also caused much confusion. There is no doubt that there are some social groups which are subjected to social disabilities but in a progressive society any group which is educationally and economically backward is likely to face social degradation. Also the situation is not static and therefore, the backwardness has to be assessed objectively at periodical intervals within certain well-defined parameters so that any social group which is found to be above the backwardness line should no longer come under the purview of protective discrimination and if any social group is found to have fallen below the backwardness line, it should be entitled to the protection and to promotional measures.

It is proposed that political under-representation, educational backwardness as well as economic backwardness and social disabilities should be decennially assessed objectively in respect of any identifiable social group, whatever its identity, which claims to be backward and, therefore, entitled to protection and promotional measures. However, the quantum of benefit should be related in case of any social group not only to its population, but also to its level of backwardness.

It is also proposed that in selecting individual beneficiaries from within a social group which is assessed to be backward and therefore entitled to reservation, the individuals who come from backward families should be given priority over the advanced families of the same group.

In relation to article 16(4), it is proposed that in the interest of social justice, every effort should be made to ensure that all social groups have due representation in public employment. When all social groups in the country are assured of their due share, it is bound to have a healthy influence on the national society, to its feeling of unity and solidarity.

Hence this Bill.

NEW DELHI;
November 16, 1993.

SYED SHAHABUDDIN

BILL NO. 114 OF 1993

A Bill to provide for the abolition of child labour and for matters connected therewith.

BE it enacted by Parliament in the Forty-fourth Year of the Republic of India as follows:—

Short title and commencement

1. (*1*) This Act may be called the Child Labour (Abolition) Act, 1993.

(*2*) It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint.

Definitions

2. In this Act, unless the context otherwise requires,—

(*a*) 'child' means a person who has not completed his fifteenth year of age; and

(*b*) 'establishment' includes a shop, commercial establishment, workshop, farm, residential hotel, restaurant, eating house, theatre or any other place of public amusement or entertainment.

Abolition of child labour.

3. The child labour is hereby abolished.

Penalty

4. (*1*) Whoever employs any child or permits any child to work in any establishment shall be punishable with imprisonment for a term which shall not be less than one year but which may extend to three years or with fine which shall not be less than ten thousand rupees but which may extend to twenty thousand rupees or with both.

(2) Whoever, having been convicted of an offence under this Act, commits a like offence afterwards, he shall be punishable with imprisonment for a term which shall be not less than two years but which may extend to four years.

Power to remove difficulties

5. (1) If any difficulty arises in giving effect to the provisions of this Act, the Central Government may, by order published in the Official Gazette, make such provisions not inconsistent with the provisions of this Act as appear to it to be necessary or expedient for removal of the difficulty

Provided that no such order shall be made after the expiry of a period of one year from the date on which this Act comes into force.

(2) Every order made under this section shall, as soon as may be, after it is made, be laid before each House of Parliament

Act to have overriding effect.

6. The provisions of this Act shall have effect notwithstanding anything inconsistent therewith contained in any other law for the time being in force.

Repeal of Act No. 61 of 1986.

7. The Child Labour (Prohibition and Regulation) Act, 1986 is hereby repealed. 61 of 1986.

STATEMENT OF OBJECTS AND REASONS

India has acceded to the Convention on the Rights of the Child which provides for—

(a) a minimum age or minimum ages for admission to employment;

(b) appropriate regulation of the hours and conditions of employment;

(c) appropriate penalties or other sanctions to ensure the effective enforcement of the declarations of the Convention.

The above Convention also recognised the right of the child to be protected from economic exploitation and from performing any work that is likely to be hazardous or to interfere with the child's education, or to be harmful to child's health, or his physical, mental, spiritual, moral or social development.

The Government of India signed the instrument of decisions arrived at the Convention on December 11, 1992.

The object of the Bill is to give effect to the declarations of the Convention on the Rights of the Child, to the extent possible in Indian context.

Hence this Bill.

NEW DELHI;
November 16, 1993.

CHITTA BASU

BILL NO. 102 OF 1993

A Bill further to amend the Constitution of India.

BE it enacted by Parliament in the Forty-fourth Year of the Republic of India as follows:—

Short title.

1. This Act may be called the Constitution (Amendment) Act, 1993.

Substitution of new article for article 285.

2. For article 285 of the Constitution, the following article shall be substituted, namely:—

Tax on property of the Union by a State or local authority.

"285. Parliament may by law authorise a State or any local authority within that State to levy any tax on any property of the Union subject to such conditions or limitations as may be prescribed by such law.

Explanation.—In this article "local authority" means any municipality, municipal corporation, district-board, panchayat or any such other local authority by whatever name called.".

STATEMENT OF OBJECTS AND REASONS

At present, a number of Public Sector Undertakings belonging to the Central Government, departmental organisations, Railways, Defence installments etc. own vast properties in Corporation, Municipal and Panchayat areas all over the country. These properties of the Central Government are exempted from being taxed by the local self Government authorities under article 285 of the Constitution. Although, the infrastructure of the local self Government authorities are fully utilised by the Public Sector undertakings and Departmental Organisations, they do not pay any taxes on property, as in the case of other property owners. This anomaly requires to be removed.

The Bill seeks to authorise the local self Government authorities to levy taxes on the properties of the Central Government.

CHITTA BASU

NEW DELHI;
November 16, 1993.

BILL NO. 97 OF 1993

A Bill further to amend the Constitution of India.

BE it enacted by Parliament in the Forty-fourth Year of the Republic of India as follows:—

Short title and commencement.

1. (*1*) This Act may be called the Constitution (Amendment) Act, 1993.

(*2*) It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint.

Amendment of Seventh Schedule.

2. In the Seventh Schedule to the Constitution,—

(*i*) in List II-State List, after entry 10. the following entry shall be inserted, namely:—

"11. Education, including technical education, medical education and universities, subject to the provisions of entries 63, 64, 65 and 66 of List I; vocational and technical training of labour."; and

(*ii*) in List III-Concurrent List, entry 25 shall be omitted.

STATEMENT OF OBJECTS AND REASONS

The founding father of the Constitution included 'Education' in the State List after much deliberations. It continued to remain in the State List till 1975-76.

'Education', however, was transferred to Concurrent List by the enactment of the Constitution (Forty second Amendment) Act, 1976 *i.e.* during the Emergency.

Although, by the Forty-fourth Amendment of the Constitution, certain undemocratic features introduced by the Forty-second Amendment were done away with, 'Education' continued to remain in the Concurrent List.

The democratic student and youth movement in our country, a wide segment of the educationists in our country and progressive public opinion have consistently held the view that 'Education' should be a State subject in order to enable the State Governments to formulate appropriate policies and programmes for the widest dissemination of education in keeping with the hopes and aspirations of the people of the States which alone can ensure the rapid cultural development of the Indian people as a whole.

The Union Government have not shown adequate interest in the matter of spread of education. Although, the widest segments of the student and teaching community have demanded 10 per cent, allocations in the Plan expenditures for education, the actual allocation in the plans did never exceed 25 per cent. of the total Plan allocations. This reveals the apathy of the Plan framers towards education. Education admittedly is the key to the success of the Plan. It is all the more disturbing to note that average per head expenditure on education by the Union Government comes to only 4 paise. West Bengal, which is genuinely interested in the spread as well as the improvement of standard of education, made budgetary allocation of Rs. 418 crores for education for the year 1983-84 despite severe limitation of resources. This means expenditure of Rs. 73 per head on education in West Bengal.

In view of the above, the education should be reverted back to the State List, in tune with the federal spirit of the Constitution, and to correct the distortions causesd by the Forty-second Amendment of the Constitution.

Hence this Bill.

NEW DELHI; CHITTA BASU

November 16, 1993.

BILL No. 111 OF 1993

A Bill further to amend the Constitution of India.

BE it enacted by Parliament in the Forty-fourth Year of the Republic of India as follows:—

Short title.

1. This Act may be called the Constitution (Amendment) Act, 1993.

Amendment of article 31C.

2 In article 31C of the Constitution,—

(*a*) for the words and figures "all or any of the principles laid down in Part IV", the words, brackets, letters and figures "the principles laid down in clause (*b*) or clause (*c*) of article 39" shall be substituted.

(*b*) the words "and no law containing a declaration that it is for giving effect to such policy shall be called in question in any court on the ground that it does not give effect to such policy:"

shall be omitted.

Omission of Part XIVA.

3. Part XIVA of the Constitution shall be omitted.

Amendment of article 366.

4. Article 366 of the Constitution shall be re-numbered as clause (2) of that article, and before clause (2) as so re-numbered, the following clause shall be inserted, namely:—

"(1) In the Preamble to this Constitution,—

(*1*) the expression "REPUBLIC", as qualified by the expression "SECULAR", means a republic in which there is equal respect for all religions; and

(2) the expression 'REPUBLIC", as qualified by the expression "SOCIALIST", means a republic in which there is freedom from all forms of exploitation, social, political and economic.".

Amendment of article 368.

5. In article 368 of the Constitution,—

(*a*) in clause (2), after the proviso, the following proviso shall be inserted, namely:—

"Provided further that if such amendment—

(a) seeks to make any change which, if made, would have the effect of—

(i) impairing the secular or democratic character of this Constitution; or

(ii) abridging or taking away the rights of citizens under Part III; or

(iii) prejudicing or impending free and fair elections to the House of the People or the Legislative assemblies of States on the basis of adult suffrage; or

(iv) compromising the independence of the judiciary; or

(b) seeks to amend this proviso,

the amendment shall also require to be approved by the People of India at a referendum under clause (4).";

(c) for clauses (4) and (5), the following clauses shall be substituted, namely:—

"(4) The referendum for the purpose of seeking the approval of the people of India for any amendment of the nature referred to in the second proviso to clause (2) shall be through a poll, and—

(i) all persons who are or the time being eligible to be voters under article 326 at elections to the House of the People shall be entitled to vote at such poll; and

(*ii*) any such amendment shall be deemed to have been approved by the people of India if such amendment is approved by a majority of the voters voting at such poll and the voters voting at such poll constitute not less than fifty-one per cent. of the voters entitled to vote at such poll.

(5) The superintendence, direction and control of the preparation of the rolls of voters for, and the conduct of, every referendum under this artcile shall vest in the Election Commission and the result of the result of such referendum as declarade by the Election Commission shall not be called in question in any court.

(6) Subject to the provisions of clauses (4) and (5), Parliament may from time to time by law make provision with respect to all matters relating to or in connection with refrendra under this article, including the preparation of the rolls of voters."

Amendment of the Seventh Schedule.

6. In the Seventh Schedule to the Constitution,—

(*a*) in List I Union List, entry 2A shall be omitted;

(*b*) in List II-State List,—

(*i*) in entry, 1, for the words "the use of any naval, military or air force or any other armed force of the Union or of any other force subject to the control of the Union or of any contingent or unit thereof", the words "the use of naval, military or air forces or any other armed force of the Union" shall be substituted;

(*ii*) for entry 2, the following entry shall be substituted, namely:—

"2 Police, including railway and village police ";

(*iii*) after entry 10, the following entry shall be inserted, namely:—

"11. Education, including universities, subject to the provisions of entries 63, 64, 65 and 66 of List I and entry 23 of List III.";

(iv) after entry 18, the following entry shall be inserted, namely:—

"19, Forests.";

(*v*) in entry 41, for the words "State public services", the words, figures and letters "State public services subject to the provisions of entry 11B of List III" shall bt substituted;

(c) In List III-Concurrent List,—

(*i*) after entry 11A, the following entry shall be inserted, namely:—

"11B. Adjudication or trial by tribunals of disputes and complaints with respect to recruitment and conditions of service of persons appointed to public services and posts in connection with the affairs of a state or of a local or other authority subject to the control of a State Government.";

(*ii*) entry 17A shall be omitted:

(*iii*) for entry 25, the following entry shall be substituttd, namely:—

"25 Vocational and technical training of labour.".

STATEMENT OF OBJECTS AND REASONS

The Constitution (Forty-second Amendment) Act was a severe blow to the concept of Paliamentary democracy. The distortions caused by the said amendment Act in the Constitution of our country need to be corrected.

Lok Sabha with that object in view passed the Constitution (Forty-fourth Amendment) Bill.

The Rajya Sabha in its wisdom made certain amendments in the Constitution (Forty-fourth Amendment) Bill as passed by Lok Sabha. Lok Sabha accepted those amendments. The distortions which crept into the Constitution as a consequence of the Constitution (Forty-second Amendment) Act, therefore, continue to remain. It is felt necessary to erase those distortions at the earliest opportunity.

This Bill seeks to achieve the removal of those distortions.

NEW DELHI;
November 16, 1993.

CHITTA BASU

FINANCIAL MEMORANDUM

Sub-clause (a) of clause 5 of the Bill seeks to insert an additional proviso in clause (2) of article 368 of the Constitution. This proviso provides for a requirement as to approval by the people of India at a referendum with respect to amendments of the nature specified therein. According to the amendments proposed in sub-clause (b) of clause 5, Parliament may from time to time by law make provision with respect to the matters relating to, or in connection with, such referenda, including the preparation of the rolls of voters. The holding of a referendum for the aforementioned purposes will involve expenditure. The expenditure which will be involved will depend upon the provisions which Parliament may make with respect to such referenda.

However, as the steps involved in holding a referendum such as the preparation of the rolls of voters, the conduct of the poll etc. are similar to those involved in general elections to Lok Sabha, the expenditure which a referendum would involve would be approximately the same as that involved in the conduct of general elections to Lok Sabha. On this basis, it is estimated that the expenditure on the preparation of the rolls of voters will be approximately Rs. 10 crores and on the conduct of a referendum will be approximately Rs. 30 crores. In the case of general elections, half of the expenditure on the preparation of the rolls of voters is shared by the State Governments. However, if the rolls of voters are revised and prepared for the purpose of a referendum only, the full expenditure on that account will be borne by the Central Government. Thus the total expenditure in respect of each referendum is likely to be to the tune of Rs. 40 crores, as a rough estimate. This expenditure will be of a recurring nature as the same will have to be incurred on each occasion when a referendum becomes necessary. Having regard to the nature of amendments which require to be approved at a referendum, the possibility of any such amendments being initiated is very remote. Further, the electoral rolls maintained for purposes of elections to Lok Sabha can be utilised for the purposes of the referendum. If a referendum is held in the same year in which a general elections takes place, the electoral rolls will not require much revision and as such, there will be no expenditure on the revision and preparation of the electoral rolls on such referendum. If, however, the referendum is held simultaneously with the General Elections, the additional expenditure, which would be incurred, will be negligible. The law which Parliament may make with respect to matters relating to referenda will no doubt take into account the various factors which will help in reducing the expenditure on account of referenda. There will be no non-recurring expenditure.

BILL No. 112 OF 1990

A Bill to alter the names of certain castes and tribes in the lists of Scheduled Castes and Scheduled Tribes and for matters connected therewith.

BE it enacted by Parliament in the Forty-fourth Year of the Republic of India as follows:—

Short title.

1. This Act may be called the Scheduled Castes and Scheduled Tribes Orders (Amendment) Act, 1993.

Amendment of the Scheduled Castes and Scheduled Tribes Orders.

2. On and from the commencement of this Act,—

(1) in the Schedule to the Constitution (Scheduled Castes) Order 1950, in "Part VI.—*Himachal Pradesh*", in item 3,—

(*a*) the Scheduled Castes, namely, "Chuhra", "Chura", and "Chuhre" shall be known as "Balmiki";

(*b*) the words "Chuhra", Chura" and "Chuhre" shall be omitted;

(2) in the Schedule to the Constitution (Scheduled Castes) (Union Territories) Order, 1951, in "Part I.—*Delhi*",—

(*a*) in items 11 and 12 the Schedule Castes, namely, "Bhangi" "Chohra (Sweeper)" and "Chuhra (Balmik)" shall be known as "Balmiki";

(*b*) in item 8, for the word "Bhangi", the word "Balmiki" shall be substituted;

(*c*) items 11 and 12 shall be omitted;

(*3*) in the Schedule to the Constitution (Jammu and Kashmir) Scheduled Castes Order, 1956, in item 5,—

(*a*) the Scheduled Caste, namely, "Chura" shall be known as "Mehtar"

(*b*) for the word "Chura", the word "Mehtar" shall be substituted;

(*4*) in the Schedule to the Constitution (Scheduled Tribes) Order 1950,—

(*a*) in "Part II.—*Assam*", "Part XI—*Meghalaya*" and "Part XVII,—*Mizoram*", in item 11,—

(*i*) the Scheduled Tribe, namely, "Mikir" shall be known as "Karbi";

(*ii*) for the word "Mikir", the word "Karbi" shall be substituted;

(*b*) in "Part XVIII,— *Arunachal Pradesh*", in items 1, 2, 4, and 7,—

(*i*) the Scheduled Tribes, namely, "Abor", "Aka", "Dafla" and "Khowa" shall be known as "Adi", "Hrusso", "Nishing (Nisi/Nishi)" and "Bugun", respectively;

(*ii*) for the words "Abor", "Aka", "Dafla" and "Khowa" the words "Adi", "Hrusso", "Nishing (Nisi/Nishi)" and "Bugun", shall respectively, be substituted;

(*5*) in the Schedule to the Constitution (Nagaland) Scheduled Tribes Order 1970, in item 4,—

(*a*) the Scheduled Tribes, namely, "Mikir" shall be known as "Karbi"

(*b*) for the word "Mikir", the word "Karbi" shall be substituted.

Removal of doubts.

3. For the removal of doubts, it is hereby declared that every certificate issued to a member belonging to any Scheduled Caste of as the case may be, Scheduled Tribe immediately before the commencement of this Act under any of the Orders referred to in section 2 shall be deemed to have been issued under such Order as amended by this Act.

STATEMENT OF OBJECTS AND REASONS

Some entries in the lists of Scheduled Castes and Scheduled Tribes notified in various Presidential orders have been the subject of criticism on the ground that the names of certain Scheduled Caste and Scheduled Tribe communities or sub-sects thereof included in these lists sound derogatory because of their disrespectful or undignified connotations. There has been considerable resentment amongst the concerned communities or sub-sects thereof. The Joint Committee on the Scheduled Castes and Scheduled Tribes (Orders) Amendment Bill, 1967 had also recommended the change in the names which sound derogatory. In deference to these sentiments, the Scheduled Castes and Scheduled Tribes Orders (Amendment) Bill, 1989 was introduced in the Lok Sabha on 12 October 1989 to change their names with more acceptable ones. The Bill was discussed and passed by the Lok Sabha on 13 October 1989. However, before it could be taken up in the Rajya Sabha, the Eighth Lok Sabha was dissolved for General Elections and the Bill lapsed in terms of article 107(5) of the Constitution of India. It is therefore, necessary to revive the lapsed Bill.

The Bill seeks to achieve the above object.

NEW DELHI;
November 16, 1993.

RAM NAIK

BILL No. 108 OF 1993

A Bill further to amend the Constitution of India.

BE it enacted by Parliament in the Forty-fourth Year of the Republic of India as follows:—

Short title.

1. This Act may be called the Constitution (Amendment) Act, 1993.

Amendment of article 324.

2. In article 324 of the Constitution,—

(i) for clause (2), the following clauses shall be substituted, namely:—

"(2) The Election Commission] shall consist of three Election Commissioners.

(*2A*) The appointment of the Election Commissioners shall be made by the President on the recommendation of a Committee consisting of the Prime Minister, the Leader of the Opposition and the Chief Justice of India:

Provided that the appointment of every Election Commissioner shall be subject to the approval of both the Houses of Parliament:

Provided further that an Election Commissioner shall hold office until he attains the age of sixty-five years.";

(*ii*) for clause (3), the following clause shall be substituted namely:—

"(*3*) One of the Election Commissioners shall act as the Chairman of the Election Commission by annual rotation in alphabetical order.";

(*iii*) in clause (5), for the existing provisos, the following provisos shall be substituted, namely:—

"Provided that an Election Commissioner shall not be removed from his office except in like manner and on the like grounds as a Judge of the Supreme Court and the conditions of service of the Election Commissioners shall not be varied to their disadvantage after their appointment:

Provided further that a Regional Commissioner shall not be removed from office except on the recommendation of the Chairman of the Election Commission"; and

(*iv*) for clause (6), the following clause shall be substituted, namely:—

"(6) The President or the Governor of a State shall when so requested by the Election Commission, make available to the Election Commission or to a Regional Commissioner such staff of various categories, in such strength and for such period as may be considered necessary by all concerned after mutual consultation for the discharge of the functions conferred on the Election Commission by clause (1):

Provided that the Election Commission may, at the conclusion of the deputation advise the controlling authority concerned to take disciplinary action against a member of the staff on deputation for such acts of omission or commission as may come to its notice.".

STATEMENT OF OBJECTS AND REASONS

Over the last 40 years some ambiguities in article 324 have come to notice which have not only strained relations between the Election Commission on the one hand, and the Central and the State Governments on the other, but have caused unseemly situations which have brought down the dignity of the Commission in the public eye.

Democracy depends on free and fair elections which can only be ensured by an independent and impartial Election Commission. However, the increase of the electorate and the frequency of mid-term elections as well as the slow but steady criminalisation of the political process have added to the work of the Election Commission. It is, therefore, essential to have more than one Election Commissioner who shall be equal and take important decisions generally by consensus and unanimity after mutual consultation and equitably share the load of the work.

A tradition should be established that an Election Commissioner shall not accept any other appointment after retirement. This is sought to be achieved by extending the age limit to 65.

There is some ambiguity regarding the deputation of necessary staff for election work. Since Government machinery cannot be halted during the election, the quantum of staff required for election work should be decided not unilaterally by the Election Commission but by mutual consultation with the Central and the State Governments as the case may be. This particularly applies to the maintenance of law and order during the election. While the security of the polling booths must be under the control of the Election Commission, the general maintenance of law and order in the constituency must remain the responsibility of the State Government. But the later must give due consideration to the advice of the Election Commission in this regard.

Another point that has arisen is with regard to the disciplinary control by the Election Commission on the staff made available to it for election work. If any delinquency, negligence of duty or partiality comes to the notice of the Election Commission, such acts of omission and commission must be taken note of and reported to the controlling authority and the later must initiate disciplinary proceedings against the officer adversely reported upon. For obvious reason because the period of deputation is very brief, the Election Commission itself should not initiate disciplinary proceedings award a penalty. Of course it is competent to return the services of an officer or staff to the controlling authority, if he finds him unfit or unequal to the situation.

What is important is that through mutual consultation, a proper balance should be achieved between the democratic imperative of safeguarding the independence and impartiality of the electoral process and the wisdom of not straining the relationship to the point of disruption.

Hence this Bill.

SYED SHAHABUDDIN

NEW DELHI;
November 17, 1993.

FINANCIAL MEMORANDUM

Clause 2 of the Bill provides for multi-member Election Commission. The Bill, therefore, if enacted, would involve expenditure from the Consolidated Fund of India in respect of additional Election Commissioners and their personal staff. A recurring expenditure of about rupees ten lakh is likely to be involved from the Consolidated Fund of India every year.

A non-recurring expenditure to the tune of rupees ten lakh is also likely to be involved.

BILL No. 109 OF 1993

A Bill to prohibit the slaughter of cow and its progeny.

WHEREAS article 48 of the Constitution enjoins on the State to organise agricultural and animal husbandry on modern and scientific lines and in particular to take steps for preserving and improving the breeds and prohibiting the slaughter of cow and its progeny.

BE it enacted by Parliament in the Forty-fourth Year of the Republic of India as follows:—

Short title.

1. This Act may be called the Ban on Cow Slaughter Act, 1993.

Definitions.

2. In this Act, unless the context otherwise requires, "Cow" includes a bull, bullock, ox, heifer or calf.

Prohibition of slaughter of cow.

3. Notwithstanding anything contained in any other law for the time being in force or any usage or custom to the contrary, no person shall slaughter or cause to be slaugtered or offer or clause to be offered for slaughter any cow in any place:

Provided that killing of cow by accident or in self-defence will not be considered as slaughter under the Act.

Prohibition of sale of beef.

4. No person shall sell or offer for sale or cause to be sold beef products in any form except for such medicinal purposes as may be prescribed.

Punishment.

5. Any person who slaughters a cow or is caught selling beef shall be punished with imphisonment which may extend to ten years or with fine which may extend to rupees ten thousand or with both.

STATEMENT OF OBJECTS AND REASONS

Article 48 of the Constitution enjoins on the State to organise agricultural and animal husbandry on modern and scientific lines and in particular to take steps for preserving and improving the breeds and prohibiting the slaughter of cow and its progency. In view of the consideration that the cow and its progeny must be saved with a view to provide milk, bullock power as well as manure, it becomes imperative to impose complete ban on the cow slaughter.

NEW DELHI;
November 19, 1993.

KASHI RAM RANA

MEMORANDUM REGARDING DELEGATED LEGISLATION

Clause 4 of the Bill provides that no person shall sell or offer for sale or cause to be sold beef products in any form except for such inedicinal purposes as may be prescribed. The delegation of legislative power is of normal character, as the matters to be prescribed are of detail only.

BILL No. 107 OF 1993

A Bill further to amend the Land Acquisition Act, 1894.

BE it enacted by Parliament in the Forty-fourth Year of the Republic of India as follows:—

Short title and extent.

1. (*1*) This Act may be called the Land Acquisition (Amendment) Act, 1993.

(*2*) It extends to the whole of India except the State of Jammu and Kashmir.

Amendment of section 11.

2. In section 11 of the Land Acquisition Act, 1894 (hereinafter referred to as the principal Act), for the words, figures and brackets "at the date of publication of the notification under section 4, sub-section (1)", the words "at the date of the acquisition" shall be substituted. 1 of 1894.

Amendment of section 23.

3. In section 23 of the principal Act, in sub-section (1) for the words, figures and brackets "at the date of the publication of the notification under seciton 4, sub-section (1)", the words "at the date of the acquisition" shall be substituted.

STATEMENT OF OBJECTS AND REASONS

Section 23 of the Land Acquisition Act, 1894, enjoins that in determining the amount of compensation for land to be acquired under the Act, the Court shall take into account the market value of land on the date of publication of notification under section 4 of the Act. When the intervening period between the date of notification and the date of acquisition is long, the compensation which the owner is entitled to is wholly insufficient to buy an equivalent area of land with similar advantages. Our aim should be to pay a fair and reasonable price for land to be acquired. To pay a price much below the market price prevailing on the date of acquisition is undoubtedly unfair and unreasonable. The Law Commission has also recommended that as far as possible everyone who is deprived of his property by compulsory acquisition should be awarded a compensation so as to place him in substantially the same position in which he was before the acquisition.

Hence the Bill.

NEW DELHI;
November 19, 1993.

KASHIRAM RANA

FINANCIAL MEMORANDUM

Clauses 2 and 3 of the Bill provide for payment of compensation to person's, whose land has been acquired, at the rates prevailing on the date of actual acquisition of such land. The Bill, if enacted, will no doubt involve expenditure from the Consolidated Fund of India, but an estimate of such expenditure cannot be given at present. The expenditure will depend on factors such as land which may have to be acquired in various measures. This factor cannot be determined now.

BILL No. 5 OF 1994

A Bill further to amend the Constitution of India.

BE it enacted by Parliament in the Forty-fifth Year of the Republic of India as follows:—

1. (*1*) This Act may be called the Constitution (Amendment) Act, 1994. Short title and commencement.

(*2*) It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint.

2. In article 15 of the Constitution, after clause (*4*), the following clause shall be inserted, namely:— Amendment of article 15.

"(*5*) Nothing in this article or in clause (*2*) of article 29 shall prevent the State from making any special provision for the advancement of any economically backward class of citizens from amongst socially and educationally advanced classes of citizens.".

3. In article 16 of the Constitution, after clause (*4*), the following clause shall be inserted, namely:— Amendment of article 16.

"(*4A*) Nothing in this article shall prevent the State from making any provision for the reservation of ten per cent. of appointments or posts in favour of economically backward class of citizens from amongst socially and educationally advanced classes of citizens.".

STATEMENT OF OBJECTS AND REASONS

Under the powers conferred by the Constitution, provisions have been made for the reservation of appointments or posts in all Government services for the people belonging to Scheduled Castes and Scheduled Tribes. In the same manner, reservations to the extent of twenty-seven per cent. have also been made for the people belonging to socially and educationally backward classes by way of implementing the recommendations of the Mandal Commission. However, there is no provision for the reservation of posts or appointments for those youths, though belonging to forward classes, who are economically backward. This has caused wide-spread resentment amongst them. There is no provision in the Constitution for making reservation of posts or appointments for economically backward citizens. So, it is necessary to amend the Constitution to provide for reservation for economically backward class of citizens.

Hence this Bill.

NEW DELHI;
November 22, 1993.

MOHAN SINGH

BILL No. 4 OF 1994

A Bill further to amend the Constitution of India.

BE it enacted by Parliament in the Forty-fifth, Year of the Republic of India as follows:—

Short title and commencement.

1. (*1*) This Act may be called the Constitution (Amendment) Act, 1994.

(*2*) It shall come into force on such date as the Central Government may by notification in the Official Gazette, appoint.

Amendment of article 324.

2. In article 324 of the Constitution,—

(*i*) after sub-section (*2*), the following proviso shall be inserted, namely:—

"Provided that the number of other Election Commissioners which may be appointed under this clause shall not be more than two."

(*ii*) for sub-section(*3*), the following sub-section shall be substituted, namely:—

"(*3*) the status of the Chief Election Commissioner and other Election Commissioners, if so appointed, shall be equal:

Provided that the Chief Election Commissoner shall act as the Chairman of the Election Commission.";

(*iii*) after sub-section (*3*), the following sub-section shall be inserted, namely:—

"(3A) In case of difference of opinion on any matter amongst the members of the Election Commission, the majority opinion shall prevail."; and

(*iv*) in sub-section (5),—

(*a*) in the first proviso, after the words "Chief Election Commissioner", wherever they occur, the words "and other Election Commissioners" shall be inserted;

(*b*) for the second proviso, the following proviso shall be substituted, namely:—

"Provided further that any Regional Commissioner shall not be removed from office except on the recommendation of the Election Commission."

STATEMENT OF OBJECTS AND REASONS

Election Commission is an important Constitutional Institution. The Indian Parliamentary democracy is based on fair and free elections. All the liabilities pertaining to elections vest in the Election Commission. Chief Election Commissioner is the head of the Commission but the status of the other Election Commissioners, who can also be appointed, is not lower than his status. The Supreme Court had also given a decision that if the Chief Election Commissioner and Election Commissioners differ in opinion, then the opinion of the majority shall prevail. But lately the Supreme Court has issued an interim order contrary to the earlier decision in which it has held that if the Chief Election Commissioner and other Election Commissioners differ in opinion, then the decision of the Chief Election Commissioner shall prevail. By this decision the position of the two new Election Commissioners appointed recently has become like advisers only and thus the purpose of making the Election Commission a multimember Commission is not being met fully. Therefore, it is necessary that a clear provision should be made for this by amending the Constitution of India.

NEW DELHI;
November 22, 1993.

MOHAN SINGH.

BILL No. 3 OF 1994.

A Bill further to amend the Representation of the People Act, 1951.

BE it enacted by Parliament in the Forty-fifth Year of the Republic of India as follows:—

Short title and commencement

1. (*1*) This Act may be called the Representation of the People (Amendment) Act, 1994.

(*2*) It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint.

Amendment of section 30.

2. In section 30 of the Representation of the People Act, 1951. 43 of 1951.

(*i*) in clause (*a*), for the words "seventh day", the words "fifth day" shall be substituted; and

(*ii*) for clause (*d*), the following clause shall be substituted, namely:—

"(*d*) the date on which a poll shall, if necessary, be taken shall be a date not earlier than the fifteenth day after the last date for the withdrawal of candidatures; and".

STATEMENT OF OBJECTS AND REASONS

The election process in our country is too lengthy. The Government machinery also keeps itself engaged in election process for a long period as a result of which all its functions come to a stand still. The period of seven days for filing of nominations is too long. It is proposed to reduce the period from seven days to five days.

The period available for canvassing by candidates is too long as a result of which the expenditure to be incurred by the Government and candidates has increased manifold. Unfair means are adopted by candidates. It is proposed to reduce the canvassing period from twenty days to fifteen days. It has been observed that elections are held on more than one day in many States. It is, therefore, necessary to hold the poll on a single day so as to minimise the expenditure and to prevent the use of unfair means by the candidates.

Hence this Bill.

MOHAN SINGH

NEW DELHI;
November 22, 1993.

BILL NO. 2 OF 1994

A Bill to establish and incorporate a teaching and residential University in the State of Bihar and to provide for matters connected therewith or incidental thereto.

BE it enacted by Parliament in the Forty-fifth Year of the Republic of India as follows:—

Short title and commencement.

1. (*1*) This Act may be called the Patna University Act, 1994.

(*2*) It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint.

Definitions.

2. In this Act, and in all Statutes made hereunder, unless the context otherwise requires,—

(*a*) "Academic Council" means the Academic Council of the University;

(*b*) "academic staff" means such categories of staff as are designated as academic staff by the Ordinances;

(*c*) "Board of Management" means the Board of Management of the University,

(*d*) "Board of Studies" means the Board of Studies of University;

(e) "Chancellor", "Vice-Chancellor" and "Pro-Vice-Chancellor" mean, respectively, the Chancellor, Vice-Chancellor and Pro-Vice-Chancellor of the University;

(*f*) "College" means a College maintained by the University;

(*g*) "Department" means a Department of Studies and includes a Centre of Studies;

(*h*) "employee" means any person appointed by the University, and includes teachers and other staff of the University;

(*i*) "Finance Committee" means the Finance Committee of the University;

(*j*) "Planning and Academic Committee" mtans the Planning and Academic Committee of the University;

(*k*) "Planning Board" means the Planning Board of the University;

(*l*) "Regulations" means the Regulations made by any authority of the University under this Act for the time being in force;

(*m*) "Statutes" and "Ordinances" mean, respectively, the Statutes and Ordinances of the University or the time being in force;

(*n*) "Teachers of the University" means Professors, Readers, Lecturers and such other persons as may be appointed for imparting instructions or conducting research in the University or in any College or Institution maintained by the University and are designated as teachers by the Ordinances;

(*o*) "University" means the Patna University established under this Act.

The University.

3. (1) **There shall be established a University by the name of "Patna University" in the State of Bihar.**

(2) The headquarters of the University shall be at Patna and it may also establish campuses at such other places within its jurisdiction as it may deem fit.

(3) The University shall have perpetual succession and a common seal and shall sue and be sued by the said name.

Transfer of properties of existing Patna University.

4. On and from the commencement of this Act, all properties of the existing Patna University shall stand transferred to, and vest in, the University established under this Act and shall be applied to the object for which the University is established.

University open to all classes, castes and creed.

5. The University shall be open to persons of either sex and of whatever caste, creed, race or class, and it shall not be lawful for the University to adpot or impose on any person, any test whatsoever of religious belief or profession in order to entitle him to be appointed as a teacher of the University or to hold any other office therein or be admitted as a student in the University or to graduate thereat or to enjoy or exercise any privilege thereof:

Provided that nothing in this section shall be deemed to prevent the University from making special provisions for the employment of admission of women, physically handicapped or of persons belonging to the weaker sections of the society and, in particular, of the Scheduled Castes and Scheduled Tribes.

Jurisdiction.

6. (*1*) On and from the commencement of this Act, all Colleges, Institutions, Schools and Departments affiliated to or admitted to the privileges of, or maintained by, the existing Patna University, shall stand affiliated to, or admitted to the privileges of, or maintained by, the University.

(*2*) The University may grant affiliation to any other college in the State of Bihar provided the University concerned in whose the jurisdiction the colleges is located has no objection.

The Visitor.

7. The President of India shall be the Visitor of the University and shall have such powers as may be prescribed by the Statutes.

Officers of the University.

8. The following shall be officers of the University:—

(*1*) The Chancellor;

(2) The Vice-Chancellor;

(*3*) The Pro-Vice-Chancellor;

(*4*) The Deans of Schools;

(*5*) The Registrar;

(*6*) The Finance Officers; and

(*7*) such other officers as may be declared by the statutes to be officers of the University.

The Chancellor.

9. (*1*) The Governor of the State of Bihar shall be the Chancellor of the University.

(*2*) The Chancellor shall, by virtue of his office, be the head of University.

(*3*) The Chancellor shall, if present, preside at the convocation of the University held for conferring degrees.

The Vice-Chancellor.

10. (*1*) The Vice-Chancellor shall be appointed by the Visitor in such manner as may be prescribed by the Statutes.

(2) The Vice-Chancellor shall be the principal executive and academic officer of the University, and shall exercise general supervision and control over the affairs of the University and give effect to the decisions of all the authorities of the University.

(*3*) The Vice-Chancellor may, if he is of opinion that immediate action is necessary on any matter, exercise any power conferred on any authority of the University by or under this Act and shall report to such authority the action taken by him on such matter:

Provided if the authority concerned is of opinion that such action ought not to have been taken, it may refer the matter to the Visitor whose decision thereon shall be final;

Provided further that any person in the service of the University who is aggrieved by the action taken by the Vice-Chancellor under this sub-section, shall have the right to appeal against such action to the Board of Management within three monhs from the date on which decision on such action is communicated to him and thereupon the Board of Management may confirm, modify or reverse the action taken by the Vice-Chancellor.

(4) The Vice-Chancellor, if he is of opinion that any decision of any authority of the University is beyond the powers of the authority conferred by the provisions of this Act, the Statutes of the Ordinances or that any decision taken is not in the interest of the University, may ask the authority concerned to reivew its decision within sixty days of such decision and if the authority refuses to review the decision either in whole or in part or no decision is taken by it within the said period of sixty days, the matter shall be referred to the Visitor whose decision thereon shall be final.

(5) The Vice-Chancellor shall exercise such other powers and perform such other duties as may be prescribed by the Statutes or the Ordinances.

The Pro-Vice-Chancellor.

11. The Pro-Vice-Chancellor shall be appointed in such manner and shall exercise such powers and perform such duties as may be prescribed by the Statutes.

Deans of Schools.

12. Every Dean of a School shall be appointed in such manner and shall exercise such powers and perform such duties as may be prescribed by the Statutes.

The Registrar.

13. (1) The Registrar shall be appointed in such manner as may be prescribed by the Statutes.

(2) The Registrar shall have the power to enter into agreement or sign documents and authenticate records on behalf of the University and shall exercise such powers and perform such duties as may be prescribed by the Statutes.

The Finance Officer.

14. The Finance Officer shall be appointed in such manner and shall exercise such powers and perform such duties as may be prescribed by the States.

Other officers.

15. The manner of appointment and powers and duties of the other officers of the University shall be prescribed by the Statutes.

Authorities of the University.

16. The following shall be the authorities of the University:—

(1) The Board of Management;

(2) the Planning and Academic Committee;

(3) the Academic Council;

(4) the Planning Board;

(5) the Board of Studies;

(6) the Finance Committee; and

(7) such other authorities as may be declared by the Statutes to be the authorities of the University.

Constitution of authorities of the University.

17. The Constitution, powers and functions of authorities, and such other authorities, as may be declared by the Statutes to be the authorities of the University, shall be prescribed by the Statutes.

Power to make statements.

18. The University shall have the power to make Statutes for carrying out the provisions of this Act.

Power to make Ordinances.

19. The University shall have the power to make Ordinances subject to the provisions of this Act and the Statutes.

Regulations.

20. The authorities of the University may make Regulations, consistant with this Act, the Statutes and the Ordinances for the conduct of their own business and that of the Committees appointed by them and not provided for by this Act, the Statutes or the Ordinances, in the manner prescribed by the Statutes.

STATEMENT OF OBJECTS AND REASONS

The Patna University is the oldest and prestigious University of the State of Bihar. It was established in 1917. The founders of the Patna University had always thought of it as a centre where youth of the country would be trained, equipped and prepared for discharging different responsibilities of life. It has played an important role in the fields of education, politics, social life and administration of the country.

The Central Government had sent certain proposals to Bihar Government in the past for the conversion of Patna University into a Central University But due to various reasons those proposals could not be implemented. Hence, it is proposed to convert the existing Patna University into a Central University.

Hence this Bill.

NEW DELHI;
December 3, 1993.

RAMASHRAY PRASAD SINGH

FINANCIAL MEMORANDUM

Clause 3 of the Bill provides that the Central Government shall establish a University in the State of Bihar. The Bill, therefore, if enacted, will involve expenditure from the Consolidated Fund of India. It is likely to involve a recurring expenditure of about rupees ten crores per annum.

No non-recurring expenditure is likely to be incurred, as all properties of the existing Patna University will be transferred to the new Central University.

MEMORANDUM REGARDING DELEGATED LEGISLATION

Clause 18 of the Bill empowers the University to make Statutes. Clause 19 of the Bill empowers the University to make Ordinances. Clause 20 of the Bill empowers the University to make Regulations.

Since the Statutes, Ordinances and Regulations will relate to matters of procedure or detail only, the delegations of legislative power is of a normal character.

BILL No. 7 *of* 1994

A Bill to provide for the creation of a Legislative Assembly for the Union territory of Andaman and Nicobar Islands and for matters connected therewith or incidental thereto.

BE it enacted by Parliament in the Forty-fifth Year of the Republic of India as follows:—

PART I

PRELIMINARY

Short title and commencement.

1. (*1*) This Act may be called the Government of Union Territory of Andaman and Nicobar Islands Act, 1994.

(*2*) It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint:

Provided that different dates may be appointed for different provisions of this Act and any reference in any such provision to the commencement of this Act shall be construed as a reference to the coming into force of that provision.

Definitions.

2. In this Act, unless the context otherwise requires,—

(*a*) "article" means an article of the Constitution;

(*b*) "assembly constituency" means a constituency provided under this Act for the purpose of elections to the Legislative Assembly;

(*c*) "Election Commission" means the Election Commission referred to in article 324;

(*d*) "Legislative Assembly" means the Legislative Assembly of the Union territory of Andaman and Nicobar Islands;

(*e*) "Scheduled Castes" in relation to the Union territory means such castes, races or tribes or parts of or groups within such castes, races or tribes as are deemed under article 341 of the Constitution to be scheduled castes in relation to that Union territory;

(*f*) "Scheduled Tribes" in relation to the Union Territory means such tribes, races or parts of the groups within such tribes or races as are deemed under article 342 to be Scheduled Tribes in relation to the Union Territory;

(*g*) "Union territory" means the Union Territory of Andaman and Nicobar Islands.

PART II

LEGISLATIVE ASSEMBLY

Legislative Assembly and its composition.

3. (*1*) **The total number of seats in the Legislative Assembly to be filled by persons chosen by direct election from territorialm constituencies shall be thirty.**

(2) **For the purposes of elections to the Legislative Assembly, the Union Territory shall be divided into single-member assembly constituencies in accordance with the provisions of Part III in such manner that the population of each of the constituencies shall, so far as practicable, be the same throughout the Union territory.**

(3) **Seats shall be reserved for the Scheduled Tribes in the Legislative Assembly, and the number of seats so reserved shall bear, as nearly as may be, the same proportion to the total number of seats in the Assembly as the population of the Scheduled Tribes in the Union territory bears to the total population of the Union Territory and the provisions of article 334 shall apply to such reservation.**

Explanation.— In this section, the expression "population" means the population as ascertained in the last preceding census of which the relevant figures have been published:

Provided that where such figures have not been published, then for the purposes of elections for the constitution of the first Legislative Assembly under this Act, the provisional figures of the population of the Union Territory as published in relation to the 1991 census shall be deemed to be the population of the Union Territory.

Qualifications for membership of Legislative Assembly.

4. A person shall not be qualified to be chosen to fill a seat in the Legislative Assembly unless he—

(*a*) is a citizen of India and makes and subscribes before some person authorised in that behalf by the Election Commission an oath or affirmation according to the form set out for the purpose in the Schedule;

(*b*) is not less than twenty-five years of age; and

(*c*) possess such other qualifications as may be prescribed in that behalf by or under any law made by Parliament.

Duration of Legislative Assembly.

5. The Legislative Assembly, unless sooner dissolved, shall continue for five years from the date appointed for its first meeting and no longer and the expiration of the said period of five years shall operate as a dissolution of the Assembly:

Provided that the said period may, while a Proclamation of Emergency issued under clause (1) of article 352 is in operation, be extended by the President by order for a period not exceeding one year at a time and not extending in any case beyond a period of six months after the Proclamation has ceased to operate.

Session of Legislative Assembly, prorogation and dissolution.

6. (*1*) The Lieutenant Governor shall, from time to time, summon the Legislative Assembly to meet at such time and place as he thinks fit, but six months shall not intervene between its last sitting in one session and the date appointed for its first sitting in the next session.

(*2*) The Lieutenant Governor may, from time to time,—

(*a*) prorogue the Assembly;

(*b*) dissolve the Assembly.

Speaker and Deputy Speaker of Legislative Assembly.

7. (*1*) The Legislative Assembly shall, as soon as may be, choose two members of the Assembly to be respectively Speaker and Deputy Speaker thereof and, so often as the office of Speaker or Deputy Speaker becomes vacant, the Assembly shall choose another member to be Speaker or Deputy Speaker, as the case may be.

(*2*) A member holding office as Speaker or Deputy Speaker of the Legislative Assembly—

(*a*) shall vacate his office if he ceases to be a member of the Assembly;

(*b*) may, at any time by writing under his hand addressed, if such member is the Speaker, to the Deputy Speaker, and if such member is the Deputy Speaker, to the Speaker resign his office; and

(*c*) may removed from his office by a resolution of the Assembly passed by a majority of all the then members of the Assembly:

Provided that no resolution for the purpose of clause (*c*) shall be moved unless atleast fourteen days notice has been given of the intention to move the resolution:

Provided further that whenever the Assembly is dissolved, the Speaker shall not vacate his office until immediately before the first meeting of the Assembly after the dissolution.

(*3*) While the office of Speaker is vacant the duties of the office and be performed by the Deputy Speaker or, if the office of Duputy Speaker is also vacant, by such member of the Assembly as may be determined by the rules of procedure of the Assembly.

(4) During the absence of the Speaker from any sitting of the Assembly, the Deputy Speaker, or if he is also absent, such person as may be determined by the rules of procedure of the Assembly, or if no such person is present, such other person as may be determined by the Assembly, shall act as Speaker.

(5) There shall be paid to the Speaker and the Deputy Speaker of the Legislative Assembly such salaries and allowances as may be respectively fixed by the Legislative Assembly by law and, until provision in that behalf is so made, such salaries and allowances as the Lieutenant Governor may, with the approval of the President, by order determine.

Speaker or Deputy Speaker not to preside while a resolution for his removal from office is under consideration.

8. (*1*) At any sitting of the Legislative Assembly, while any resolution for the removal of the Speaker from his office is under consideration, the Speaker, or while any resolution for the removal of the Deputy Speaker from his office is under consideration, the Deputy Speaker, shall not, though he is present, preside and the provisions of sub-section (*4*) of section 7 shall apply in relation to every such sitting as they apply in relation to a sitting from which the Speaker or, as the case may be, the Deputy Speaker is absent.

(*2*) The Speaker shall have the right to speak in and otherwise to take part in the proceedings of the Legislative Assembly while any resolution for his removal from office is under consideration in the Assembly and shall, notwithstanding anything in section 13, be entitled to vote only in the first instance on such resolution or on any other matter during such proceedings but not in the case of an equality of votes.

Right of Lt. Governor to address and send message to Legislative Assembly.

9. (*1*) The Lieutenant Governor may address the Legislative Assembly and for that purpose require the attendance of members.

(*2*) The Lieutenant Governor may send message to the Assembly whether with respect to a Bill thn pending in the Assembly or otherwise and when a message is so sent, the Assembly shall with all convenient despatch consider any matter required by the message to be taken into consideration.

Special address by the Lieutenant Governor.

10. (*1*) At the commencement of the first session after each general election to the Legislative Assembly and at the commencement of the first session of each year, the lieutenant Governor shall address the Legislative Assembly and inform it of the causes of its summons.

(*2*) Provision shall be made by rules to be made by the Assembly regulating its procedure for the allotment of time for discussion of the matters referred to in such address.

Rights of Ministers as respects Legislative Assembly.

11. Every Minister shall have the right to speak in and otherwise to take part in the proceedings of the Legislative Assembly and to speak in and otherwise to take part in the proceedings of any committee of the Legislative Assembly of which he may be named a member, but shall not by virtue of this section be entitled to vote.

Ooth or affirmation by members.

12. Every member of the Legislative Assembly shall, before taking his seat, make and subscribe before the Lieutenant Governor, or some person appointed in that behalf by him, an oath or affirmation according to the form set out for the purpos e in the Schedule.

Voting in Legislative Assembly, power of Assembly to act notwithstanding vacancies and quorum.

13. (*1*) Save as otherwise provided in the Act, question at any sitting of the Legislative Assembly shall be determined by a majority of votes of the memebers present and voting other than the Speaker or person acting as such.

(*2*) The Speaker or person acting as such shall not vote in the first instance, but shall have and exercise a casting vote in the case of an equality of votes.

(*3*) The Legislative Assembly shall have power to act notwithstanding any vacancy in the membership thereof, and any proceedings in the Legislative Assembly shall be valid notwithstanding that it is discovered subsequently that some person who was not entitled so to do, sat or voted or otherwise took part in the proceedings.

(*4*) The quorum to constitute a meeting of the Legislative Assembly shall be one-third of the total number of members of the Assembly.

(*5*) If at any time during a meeting of the Legislative Assembly there is no quorum, it shall be the duty of the Speaker, or person acting as such, either to adjourn the Assembly or to suspend he meeting until there is a quorum.

Vacation of seats.

14. (*1*) No person shall be a member both of Parliament and of the Legislative Assembly and if a person is chsoen a member both of Parliament and of such Assembly, then, at the expiration of such period as is specified in or under the Representation of People Act, 1951, and the rules made by the President under clause (*2*) or article 101 and clause (2) of article 190, that persons's seat in Parliament shall become vacant, unless he had peviously resigned his seat in the Legislative Assembly.

43 of 1951.

(*2*) If a member of the Legislative Assembly—

(*a*) becomes subject to any disqualification mentioned in section 15 or section 16 for membership of the Assembly, or

(*b*) resigns his seat by writing under his hand addressed to the Speaker and his resignation is accepted by the Speaker, his seat shall thereupon become vacant:

Provided that in the case of any resignation referred to clause (b), if from the information received or otherwise and after making such inquiry as he thinks fit, the Speake is satisfied that such resignation is not voluntary or genuine he shall not accept such resignation;

(*3*) If for a period of sixty days a member of the Legislative Assembly is without permission of the Assembly absent from all meetings thereof, the Assembly may declare his seat vacant:

Provided that in computing the said period of sixty days no account shall be taken of any period during which the Assembly is prorogued or is adjourned for more than four consecutive days.

Disqualification for membership.

15. (*1*) A person shall be disqualified for being chosen as, and for being, a member of the Legislative Assembly—

(*a*) if he rold any office of profit under the Government of India or the Government of any State or the Government of any Union territory other, than an office declared by law made by Parliament or by the Legislature of any State or by the Legislative Assembly of any other Union territory not to disqualify its holder; or

(*b*) if he is for the time being disqualified for being chosen as, and for being, a member of either House of Parliament under the provisions of sub-clause (b) sub-clause (c) or sub-clause (d) of clause (1) of article 102 or of any law made in pursuance of that article.

(*2*) For the purpose of the section, a person shall not be deemed to hold an office of profit under the Government of India or the Government of any State or the Government of any Union territory by reason only that he is a Minister either for the Union or for such State or Union territory.

(*3*) If any question arises as to whether a member of the Legislative Assembly has become disqualified for being such a member under the provisions of sub-section (*1*), the question shall be referred for the decision of the President and his decision shall be final.

(*4*) Before giving any decision on any such question, the President shall obtain the opinion of the Election Commission and shall act according to such opinion.

Disqualification on ground of defection.

16. The provisions of the Tenth Schedule to the Constitution shall, subject to the necessary modifications (including modifications for construing reference therein to the Legislative Assembly of a State, article 188, article 194 and article 212 as references, respectively, to the Legislative Assembly, section 12, section 18 and section 37 of this Act), apply to and in relation to the members of the Legislative Assembly as they apply to and in relation to the members of the Legislative Assembly of a State and accordingly:—

(*a*) the said Tenth Schedule as so modified shall be deemed to form part of this Act; and

(*b*) a person shall be disqualified for being a member of the Legislative Assembly if he is so disqualified under the said Tenth Schedule as so modified.

Penalty for sitting and voting before making oath or affirmation or when not qualified or when disqualified.

17. If a person sits or votes as a member of the Legislative Assembly before he has complied with the requirements of section 12 or when he knows that he is not qualified or that he is disqualified for membership thereof, he shall be liable in respect of each day on which he so sits or votes to apenalty of five hundred rupees to be recovered as a debt due to the Union.

Powers, privileges, etc. of members.

18. (*1*) Subject to the provisions of this Act and to the rules and standing orders regulating the procedure of the Legislative Assembly, there shall be freedom of speech in the Legislative Assembly.

(*2*) No member of the Legislative Assembly shall be liable to any proceedings in any court in respect of anything said or any vote given by him in the Assembly or any committee thereof and no person shall be so liable in respect of the publication by or under the authority of such Assembly of any report, paper, votes or proceedings.

(*3*) In other respects, the powers, privileges and immunities of the Legislative Assembly and of the members and the committees thereof shall be such as are for the time being enjoyed by the House of the People and its members and committees.

(*4*) The provisions of sub-section (*1*), (*2*) and (*3*) shall apply in relation to persons who by virtue of this Act have the right to speak in, and otherwise to take part in the proceedings of, the Legislative Assembly or any committee thereof as they apply, in relation to members of that Assembly.

Salaries and allowances of members.

19. Members of the Legislative Assembly shall be entitled to receive such salaries and allowances as may from time to time determined by the Legislative Assembly by law and until provision in that behalf is so made, such salaries and allowances as the Lieutenant Governor may, with the approval of the President, by order determine.

Exemption of property of the union from taxation.

20. The property of the Union shall, save in so far as Parliament may by law otherwise provide, be exempted from all taxes imposed by or under any law made by the Legislative Assembly or by or under any other law in force in the Union territory.

Provided that nothing in this section shall, until Parliament by law otherwise provides, prevent any authority within the Union territory from levying any tax on any property of the Union to which such property was immediately before the commencement of the Constitution liable or treated as liable, so long as the tax continues to be levied in the Union territory.

Restrictions on laws passed by Legislative Assembly with respect to certain matters.

21. (*1*) The provisions of article 286, article 287 and article 288 shall apply in relation to any law passed by the Legislative Assembly with respect to any of the matters referred to in those articles as they apply in relation to any law passed by the Legislature of a State with respect to those matters.

(*2*) The provisions of article 304 shall, with the necessary modifications, apply in relation to any law passed by the Legislative Assembly with respect to any of the matters referred to in that article as they apply in relation to any law passed by the Legislature of a State with respect to those matters.

Special provisions as to financial Bills.

22. (*1*) A Bill or amendment hsall not be introduced into, or moved in, the Legislative Assembly except on the recommendation of the Lieutenant Governor if such Bill or amendment makes provision for any of the following matters, namely:—

(*a*) the imposition, abolition remission, alteration or regulation of any tax;

(b) the amendment of the law with respect to any financial obligations undertaken or to be undertaken by the Government of the Union territory;

(c) the appropriation of moneys out of the Consolidated Fund of the Union territory;

(d) the declaring of any expenditure to the expenditure charged on the Consolidated Fund of the Union territory or the increasing of the amount of any such expenditure;

(e) the receipt of money on account of the Consolidated Fund of the Union territory or the custody of such money:

Provided that no recommendation shall be required under this sub-section for the moving of an amendment making provision for the reduction or abolition of any tax.

(2) A Bill or amendment shall not be deemed to make provision for any of the matters aforesaid by reason only that it provides for the imposition of fines or other pecuniary penalties, or for the demand or payment of fees for licences or fees for services rendered, or by reason that it provides for the imposition, abolition, remission, alteration or regulation of any tax by any local authority or body for local purposes.

(3) A Bill which, if enacted and brought into operation, would involve expenditure from the Consolidated Fund of the Union territory shall not be passed by the Legislative Assembly unless the Lieutenant Governor has recommended to that Assembly the consideration of the Bill.

Procedure as to lapsing of Bills.

23. (1) A Bill pending in the Legislative Assembly shall not lapse by reason of the prorogation of the Assembly.

(2) A Bill which is pending in the Legislative Assembly shall lapse on a dissolution of the Assembly.

Assent to Bills.

24. When a Bill has been passed by the Legislative Assembly it shall be presented to the Lieutenant Governor and the Lieutenant Governor shall declare either that he assents to the Bill or that he withholds assent therefrom or that he reserves the Bill for the consideration of the President:

Provided that the Lieutenant Governor may, as soon as possible after the presentation of the Bill to him for assent, return the Bill if it is not a Money Bill together with a message requesting that the Assembly will reconsider the Bill or any specified provisions thereof, and, in particular, will consider the desirability of introducing any such amendments as he may recommend in his message and, when a Bill is so returned, the Assembly will reconsider the Bill accordingly, and if the Bill is passed again with or without amendment and presented to the Lieutenant Governor for assent, the Lieutenant Governor shall declare either that he assents to the Bill or that he reserves the Bill for the consideration of the President:

Provided further that the Lieutenant Governor shall not assent to, but shall reserve for the consideration of the President, any Bill which,—

(*a*) in the opinion of the Lieutenant Governor would, if it became law, so derogate from the powers of the High Court as to endanger the position which that Court is, by the Constitution, designed to fill; or

(*b*) the President may, by order, direct to be reserved for his consideration; or

(c) relates to matter referred to in sub-section (5) of section 7 or section 19 or section 34 or sub-section (3) of section 43.

Explanation.—For the purposes of the section and section 25, a Bill shall be deemed to be a Money Bill if it contains only provisions dealing with all or any of the matters specified in sub-section (1) of section 22 or any matter incidental to any of those matters and, in either case, there is endorsed thereon the certificate of the Speaker of the Legislative Assembly signed by him that it is a Money Bill.

Bills reserved for consideration.

25. When a Bill is reserved by the Lieutenant Governor for the consideration of the President, the President shall declare either that he assents to the Bill or that he withholds assent therefrom:

Provided that where the Bill is not a Money Bill, the President may direct the Lieutenant Governor to return the Bill to the Legislative Assembly together with such a message as is mentioned in the first proviso to section 24 and, when a Bill is so returned, the Assembly shall reconsider it accordingly within a period of six months from the date of receipt of such message and, if it is again passed by the Assembly with or without amendment it shall be presented again to the President for his consideration.

Requirements as to sanction, etc.

26. No Act of the Legislative Assembly, and no provision in any such Act, shall be invalid by reason only that some previous sanction or recommendation required by this Act was not given, if assent to that Act was given by the Lieutenant Governor, or, on being reserved by the Lieutenant Governor for the consideration of the President, by the President.

Annual financial statement.

27. (*1*). The Lieutenant Governor shall in respect of every financial year cause to be laid before the Legislative Assembly, with the previous sanction of the President, a statement of the estimated receipts and expenditure of the Union territory for that year, in this Part referred to as the "annual financial statement".

(2) The estimates of expenditure embodied in the annual financial statement shall show separately—

(*a*) the sums required to meet expenditure described by this Act as expenditure charged upon the Consolidated Fund of the Union territory; and

(*b*) the sums required to meet other expenditure proposed to be made from the Consolidated Fund of the Union territory

and shall distinguish expenditure on revenue account from other expenditure.

(*3*) Notwithstanding anything contained in any law for the time being in force, the following expenditure shall be expenditure charged on the Consolidated Fund of the Union territory:

(*a*) the emoluments and allowances of the Lieutenant Governor and other expenditure relating to his office as determined by the President by general or special order;

(*b*) the charges payable in respect of loans advanced to the Union territory from the Consolidated Fund of India including interest, sinking fund charges and redemption charges and other expenditure connected therewith;

(*c*) the salaries and allowances of the Speaker and the Deputy Speaker of the Legislative Assembly;

(*d*) any sums required to satisfy any judgement decree or award of any court or arbitral tribunal;

(*e*) any other expenditure declared by the Constitution or by law made by Parliament or by the Legislative Assembly to be so charged.

Procedure in Legislative Assembly with respect to estimate.

28. (*1*) So much of the estimates as relates to expenditure charged upon the Consolidated Fund of the Union territory shall not be submitted to the vote of the Legislative Assembly, but nothing in this subsection shall be construed as preventing the discussion in the Legislative Assembly of any of those estimates

(*2*) So much of the said estimates as relates to other expenditure shall be submitted in the form of demands for grants to the Legislative Assembly, and the Legislative Assembly shall have power to assent or to refuse to assent, to any demand, or to assent to any demand subject to a reduction of the amount specified therein

(*3*) No demand for a grant shall be made except on the recommendation of the Lieutenant Governor.

Appropriation Bills

29. (*1*) As soon as may be after the grants under section 28 have been made by the Legislative Assembly, there shall be introduced a Bill to provide for the appropriation out of the Consolidated Fund of the Union territory of all moneys required to meet—

(*a*) the grants so made by the Assembly; and

(*b*) the expenditure charged on the Consolidated Fund of the Union territory but not exceeding in any case the amount shown in the statement previously laid before the Assembly.

(*2*) No amendment shall be proposed to any such Bill in the Legislative Assembly which will have the effect of varying the amount or

altering the destination of any grant so made or of varying the amount of any expenditure charged on the Consolidated Fund of the Union territory and the decision of the person presiding as to whether an amendment is inadmissible under this sub-section shall be final.

(*3*) Subject to the other provisions of this Act, no money shall be withdrawn from the Consolidated Fund of the Union territory except under appropriation made by law passed in accordance with provisions of this section.

Supplementary, additional or excess grants.

30. (*1*) The Lieutenant Governor shall,—

(*a*) if the amount authorised by any law made in accordance with the provisions of section 29 to be expended for a particular service for the current financial year is found to be insufficient for the purposes of that year or when a need has arisen during the current financial year for supplementary or additional expenditure upon some new service not contemplated in the annual financial statement for that year, or

(*b*) if any money has bten spent on any service during a financial year in excess of the amount granted for that service and for that year, cause to be laid before the Legislative Assembly, with the previous sanction of the President, another statement showing the estimated amount of that expenditure or cause to be presented to the Legislative Assembly with such previous sanction a demand for such excess, as the case may be.

(*2*) The provisions of sections 27, 28 and 29 shall have effect in relation to any such statement and expenditure or demand and also to any law to be made authorising the appropriation of moneys out of the Consolidated Fund of the Union territory to meet such expenditure or the grant in respect of such demand as they have effect in relation to the annual financial statement and the expenditure mentioned therein or to a demand for a grant and the law to be made for the authorisation of appropriation of moneys out of the Consolidated Fund of the Union territory to meet such expenditure or grant.

Votes on account.

31. (*1*) Notwithstanding anything in the foregoing provisions of this Part, the Legislative Assembly shall have power to make any grant in advance in respect of the estimated expenditure for a part of any financial year pending the completion of the procedure prescribed in section 28 for the voting of such grant and the passing of the law in accordance with the provisions of section 29 in relation to that expenditure and the Legislative Assembly shall have power to authorise by law the withdrawal of moneys from the consolidated Fund of the Union territory for the purposes for which the said grant is made.

(*2*) The provisions of sections 28 and 29 shall have effect in relation to the making of any grant under sub-section (1) or to any law to be made under that sub-section as they have effect in relation to the making of a grant with regard to any expenditure mentioned in the annual financial statement and the law to be made for the authorisation of appropriation of moneys, out of the Consolidated Fund of the Union territory to meet such expenditure.

Authorisation of expenditure pending its sanction by Legislative Assembly.

32. Notwithstanding anything in the foregoing provisions of this Part, the Lieutenant Governor may authorise such expenditure from the Consolidated Fund of the Union territory as he deems necessary for a period of not more than six months beginning with the date of the constitution of the Consolidated Fund of the Union territory, pending the sanction of such expenditure by the Legislative Assembly.

Rules of procedure.

33. (*1*) The Legislative Assembly may make rules for regulating, subject to the provisions of this Act, its procedure and the conduct of its business:

Provided that the Lieutenant Governor shall, after consultation with the Speaker of the Legislative Assembly and with the approval of the President, make rules—

(*a*) for securing the timely completion of financial business;

(*b*) for regulating the procedure of, and the conduct of business in, the Legislative Assembly in relation to any financial matter or to any Bill for the appropriation of moneys out of the Consolidated Fund of the Union territory;

(*c*) for prohibiting the discussion of, or the asking of questions on, any matter which affects the discharge of the functions of the Lieutenant Governor in so far as he is required by or under this Act or any law to act in his discretion.

(*2*) Until rules are made under sub-section (1), the rules of procedure and standing orders with respect to the Legislative Assembly of the State of Uttar Pradesh in force immediately before the commencement of this Act shall have effect in relation to the Legislative Assembly subject to such modifications and adaptations as may be made therein by the Lieutenant Governor.

Official language or languages of the Union territory and language or languages to be used in Legislative Assembly.

34. (*1*) The Legislative Assembly may by law adopt any one or more of the languages in use in the Union territory or Hindi as the official language or languages to be used for all or any of the official purposes of the Union territory:

Provided that the President may by order direct—

(*i*) that the official language of the Union shall be adopted for such of the official purposes of the Union territory as may be specified in the order;

(*ii*) that any other language shall also be adopted throughout the Union territory or such part thereof for such of the official purposes of the Union territory as may be specified in the order, if the President is satisfied that a substantial proportion of the population of the Union territory desires the use of that other language for all or any of such purposes.

(*2*) The business in the Legislative Assembly shall be transacted in the official language or languages of the Union territory or in Hindi or in English:

Provided that the Speaker of the Legislative Assembly or person acting as such, as the case may be, may permit any member who cannot

adequately express himself in any of the languages aforesaid to address the Assembly in his mother-tongue.

Language to be used for Bills, Acts, etc.

35. Notwithstanding anything contained in section 34, until Parliament by law otherwise provides, the authoritative texts—

(*a*) of all Bills to be introduced or amendments thereto to be moved in the Legislative Assembly;

(*b*) of all Acts passed by the Legislative Assembly; and

(*c*) of all orders, rules, regulations and bye-laws issued under any law made by the Legislative Assembly shall be in the English language:

Provided that where the Legislative Assembly has prescribed any language other than the English language for use in Bills introduced in, or Acts passed by, the Legislative Assembly or in any order, rule, regulation or bye-law issued under any law made by the Legislative Assembly, a translation of the same in the English language published under the authority of the Lieutenant Governor in the official Gazette shall be deemed to be the authoritative text thereof in the English language.

Restrictions on discussion in the Legislative Assembly.

36. No discussion shall take place in the Legislative Assembly with respect to the conduct of any Judge of the Supreme Court or of a High Court in the discharge of his duties.

Courts not to inquire into proceedings of Legislative Assembly.

37. (*1*) The validity of any proceedings in the Legislative Assembly shall not be called in question on the ground of any alleged irregularity of procedure.

(*2*) No officer or member of the Legislative Assembly in whom powers are vested by or under this Act for regulating procedure or the conduct of business, or for maintaining order in the Legislative Assembly shall be subject to the jurisdiction of any court in respect of the exercise by him of those powers.

PART III

DELIMITATION OF CONSTITUENCIES

Election Commission to delimit constituencies.

38. (*1*) The Election Commission shall, in the manner herein provided, distribute the seats assigned to the Legislative Assembly under section 3 to single-member territorial constituencies and delimit them having regard to the following provisions, namely:—

(*a*) all constituencies shall, as far as practicable, be delimited in such manner that the ratio between the population of each of such constituencies and the total population of the Union territory is the same; and

(*b*) constituencies in which seats are reserved for the Scheduled Castes/Tribes shall, as far as practicable, be located in areas where the proportion of their population to the total population is comparatively large

(*2*) The Election Commission shall—

(*a*) publish its proposals for the delimitation of constituencies in the Official Gazette and also in such other manner as the Commis-

sion may consider fit, together with a notice inviting objections and suggestions in relation to the proposals and specifying a date on or after which the proposals will be further considered by it;

(*b*) consider all objections and suggestions which may have been received by it before the date so specified;

(*c*) after considering all objections and suggestions which may have been received by it before the date so specified, finalise delimitation of constituencies and cause such order or orders to be published in the official Gazette; and upon such publication, the order or orders shall have the full force of law and shall not be called in question in any court;

Power of Election Commission to maintain delimitations orders upto date.

39. The Election Commission may, from time to time, by notification in the Official Gazette,—

(*a*) correct any printing mistakes in any order made under section 38 or any error arising therein from inadvertent slip or omission; and

(*b*) where the boundaries or name of any territorial division mentioned in any such order are or is altered, make such amendments as appear to it to be necessary or expedient for bringing such order uptodate.

Election to the Legislative Assembly

40. (*1*) For the purpose of constituting the Legislative Assembly, a general election will be held as soon as may be after the delimination of all the assembly constituencies under section 38.

(*2*) For the purpose of sub-section (1), the Lieutenant Governor shall, by one or more notifications published in the official Gazette, call upon all the said assembly constituencies to effect members in accordance with the provisions of the Representation of the People Act, 1951 and of the rules and orders made or issued thereunder as applicable under sub-section (3). 43 of 1951.

(*3*) The Representation of the People Act, 1950, the Representation of the People Act, 1951 the rules and orders made or issued under the said Acts and all other laws for the time being in force relating to the elections shall apply with necessary modifications (including modifications for construing references therein to a State, State Government and Governor as including references to the Union territory, Government of the Union territory and Lieutenant Governor, respectively) to, and in relation to, the general election referred to in sub-section (1) 43 of 1950, 43 of 1951.

PART IV

CERTAIN PROVISIONS RELATING TO LIEUTENANT GOVERNOR AND MINISTERS

Matters in which Lieutenant Governor to act in his discretion.

41. (*1*) The Lieutenant Governor shall act in his discretion in a matter—

(*i*) which falls outside the purview of the powers conferred on the Legislative Assembly but in respect of which powers or functions are entrusted or delegated to him by the President; or

(*ii*) in which he is required by or under any law to act in his discretion or to exercise any judicial or quasi-judicial functions.

(2) If any question arises as to whether any matter is or is not a matter as respects which the Lieutenant Governor is by or under any law required to act in his discretion, the decision of the Lieutenant Governor thereon shall be final.

(3) If any question arises as to whether any matter is or is not a matter as respects which the Lieutenant Governor is required by any law to exercise any judicial or quasi-judicial functions, the decision of the Lieutenant Governor thereon shall be final.

Advice by Ministers.

42. The question whether any, and if so what, advice was tendered by Ministers to the Lieutenant Governor shall not be inquired into in any court.

Other provisions as to Ministers.

43. (1) Before a Minister enters upon his office, the Lieutenant Governor shall administer to him the oaths of office and of secrecy according to the forms set out for the purpose in the Schedule.

(2) A Minister who, for any period of six consecutive months, is not a member of the Legislative Assembly, at the expiration of that period, shall cease to be a Minister.

(3) The salaries and allowances of Ministers shall be such as the Legislative Assembly may from time to time by law determine and until the Legislative Assembly so determines, shall be determined by the Lieutenant Governor with the approval of the President.

Conduct of business.

44. (1) The President shall make rules—

(a) for the allocation of business to the Ministers in so far as it is business with respect to which the Lieutenant Governor is required to act on the aid and advice of his Council of Ministers; and

(b) for the more convenient transaction of business with the Ministers, including the procedure to be adopted in the case of a difference of opinion between the Lieutenant Governor and the Council of Ministers or a Minister.

(2) Save as otherwise provided in this Act, all executive action of the Lieutenant Governor whether taken on the advice of his Ministers or otherwise shall be expressed to be taken in the name of the Lieutenant Governor.

(3) Orders and other instruments made and executed in the name of the Lieutenant Governor shall be authenticated in such manner as may be specified in rules to be made by the Lieutenant Governor and the validity of an order or instrument which is so authenticated shall not be called in question on the ground that it is not an order or instrument made or executed by the Lieutenant Governor.

Duties of Chief Minister as respects the furnishing of information to the Lieutenant etc. Governor.

45. It shall be the duty of the Chief Minister—

(a) to communicate to the Lieutenant Governor all decisions of Council of Ministers relating to the administration of the affairs of the Union territory and proposals for legislation;

(*b*) to furnish such information relating to the administration of the affairs of the Union territory and proposals for legislation as Lieutenant Governor may call for; and

(*c*) if the Lieutenant Governor so requires, to submit for the consideration of the Council of Ministers any matter on which a decision has been taken by a Minister but which has not been considered by the Council

PART V

MISCELLANEOUS AND TRANSITIONAL PROVISIONS

Consolidated Fund of the Union territory

46 (*1*) As from such date as the Central Government may, by notification in the official Gazette, appoint in this behalf, all revenues received in the Union territory by the Government of India or the Lieutenant Governor in relation to any matter with respect to which the Legislative Assembly has power to make laws, and all grants made and all loans advanced to the Union territory from the Consolidated fund of India and all moneys received by the Union territory in repayment of loans shall form one Consolidated Fund to be entitled "the Consolidated Fund of the Union territory of Andaman and Nicobar Islands" (referred to in this Act as the Consolidated Fund of the Union territory).

(*2*) No moneys out of the Consolidated Fund of the Union territory shall be appropriated except in accordance with and for the purposes and in the manner provided in this Act

(*3*) The custody of the Consolidated Fund of the Union territory, the payment of moneys into such Fund, the withdrawal of moneys therefrom and all other matters connected with or ancillary to those matters shall be regulated by rules made by rules made by the Lieutenant Governor with the approval of the President

Contingency Fund of the Union territory.

47. (*1*) There shall be established a contingency Fund in the nature of an imprest to be entitled "the Contingency Fund of the Union Territory of Andaman and Nicobar Islands" into which shall be paid from and out of the Consolidated Fund of the Union territory such sums as may, from time to time be determined by law made by the Legislative Assembly; and the said Fund shall be held by the Lieutenant Governor to enable advances to be made by him out of such Fund

(*2*)No advances shall be made out of the Contingency Fund referred to in sub-section (1) except for the purposes of meeting unforseen expenditure pending authorisation of such expenditure by the Legislative Assembly under appropriation made by law

(*3*) The Lieutenant Governor may make rules regulating all matters connected with or ancillary to the custody of, the payment of moneys into, and the withdrawal of moneys from the aforesaid Contingency Fund.

Audit reports

48. The reports of the Comptroller and Auditor-General of India relating to the accounts of the Union territory for any period subsequent to the date referred to in sub-section (1) of section 46 shall be submitted to the Lieutenant Governor who shall cause them to be laid before the Legislative Assembly.

Relation of Lieutenant Governor and his Ministers to President.

49. Notwithstanding anything in this Act, the Lieutenant Governor and his Council of Ministers shall be under the general control of, and comply with such particular directions, if any, as may from time to time be given by, the President.

Period of order made under article 239AB and approval thereof by Parliament.

50. (*1*) Every order made by the President under article 239AB shall expire at the end of one year from the date of issue of the order and the provisions of clauses (2) and (3) of article 356 shall, so far as may be, apply to such order as they apply to a Proclamation issued under clause (1) of article 356.

(*2*) Notwithstanding anything contained in sub-section (1), the President may extend the duration of the aforesaid order for a further period not exceeding two years from the date of expiry of the order under sub-section (1) subject to the condition that every extension of the said order for any period beyond the expiration of one year shall be approved by resolutions of both Houses of Parliament.

Authorisation of expenditure by President

51. Where the Legislative Assembly is dissolved or its functioning as such Assembly remains suspended, on account of an order made by the President under article 239AB, it shall be competent for the President to authorise when the House of the People is not in session expenditure from the Consolidated Fund of the Union territory pending the sanction of such expenditure by Parliament

Contracts and suits.

52. For the removal of doubts it is hereby declared that--

(*a*) all contracts in connection with the administration of the Union territory are contracts made in the exercise of the executive power of the Union; and

(*b*) all suits and proceedings in connection with the administration of the Union territory shall be instituted by or against the Government of India.

Power of President to remove difficulties.

53. (*1*) If any difficulty arises in relation to the transaction from the provisions of any law repealed by the Act or in giving effect to the provisions of this Act and in particular in relation to the constitution of the Legislative Assembly, the President may by order do anything not inconsistent with the provisions of the Constitution or of this Act which appear to him to be necessary or expedient for the purpose of removing the difficulty:

Provided that no order under the sub-section shall be made after the expiry of three years from the date of constitution of the first Legislative Assembly.

(*2*) Every order made under sub-section (1) shall be laid before each House of Parliament.

Laying of Rules before Legislative Assembly.

54. Every rule made by the Lieutenant Governor under this Act shall be laid, as soon as it is made, before the Legislative Assembly.

Amendments to the Constitution.

55. On and from the appointed day—

(*a*) after article 239AA, the following article shall be inserted, namely:—

"239AAA. (*1*) As from the date of commencement of the Government of Union territory of Andaman and Nicobar Islands Act, 1994, the administrator of the Union territory of Andaman and Nicobar Islands appointed under article 239 shall be designated as the Lieutenant Governor.

(*2*) The provisions of articles 239AA and 239AB shall, so far as may be, apply *mutatis mutandis* in relation to the Union territory of Andaman and Nicobar Islands, Lieutenant Governor and the Legislative Assembly, as they apply in relation to the National Capital Territory of Delhi and its Legislature, respectively.";

(*b*) in article 240, in clause (*1*), for the existing proviso, the following provisos shall be substituted, namely:—

"Provided that when any body is created under article 239A or 239AAA to function as a Legislature for the Union territory of Pondicherry or Union territory of Andaman and Nicobar Islands, as the case may be, the President shall not make any regulation for the peace, progress and good government of that Union territory with effect from the date appointed for the first meeting of the Legislature:

Provided further that whenever the body functioning as a Legislature for the Union territory of Pondicherry or Andaman and Nicobar Islands, as the case may be, is dissolved, or the functioning of that body as such Legislature remains suspended on account of any action taken under any such law as is referred to in clause (1) of article 239A or 239AB, as the case may be, the President may, during the period of such dissolution or suspension, make regulations for the peace, progress and good government of that Union territory."

(*c*) In the Fourth Schedule to the Constitution, in the Table,—

(*a*) entries 26 and 27 shall be re-numbered as entries 27 and 28 respectively, and before entry 27 as so re-numbered, the following entry shall be inserted, namely:—

"26. Andaman and Nicobar Islands....1";

(*b*) for the figures "233", the figures "234" shall be substituted.

Amendment of section 27A of Act 43 of 1950.

56. In section 27A of the Representation of People Act, 1950, after sub-section (4), the following sub-section shall be inserted namely:—

"(5) The electoral college for the Union territory of Andaman and Nicobar Islands shall consist of the elected members of the Legislative Assembly constituted for that territory under the Government of Union territory of Andaman and Nicobar Islands Act, 1994."

THE SCHEDULE

(*See* sections 4, 12 and 43)

FORMS OF OATH OR AFFIRMATIONS

I

Form of oath or affirmation to be made by a candidate for election to the Legislative Assembly:—

"I, A.B., having been nominated as a candidate to fill a seat in the Legislative Assembly, do swer in the name of God/solemnly affirm that I will bear true faith and allegiance to the Constitution of India as by law established and that I will uphold the sovereignty and integrity of India."

II

Form of oath or affirmation to be made by a member of the Legislative Assembly:—

"I, A.B., having been elected a member of the Legislative Assembly, do swear in the name of God/solemnly affirm that I will bear true faith and allegiance to the Constitution of India as by law established, and that I will uphold the sovereignty and integrity of India and that I will faithfully discharge the duty upon which I am about to enter."

III

From of oath of office of a member of the Council of Ministers.—

"I, A.B., do swear in the name of God/solemnly affirm that I will bear true faith and allegiance to the Constitution of India as by law established, that I will uphold the sovereignty and integrity of India, that I will faithfully and conscientitiously discharge my duties as a Minister, and that I will do right to all manner of people in accordance with the Constitution and the law without fear or favour, affection or ill-will."

IV

Form of Oath of Secrecy for a member of the Council of Ministers:—

"I, A. B , do swear in the name of God that I will not directly
solemnly affirm
or indirectly communicate or reveal to any person or persons any matter which shall be brought under my consideration or shall become known to me as a Minister except as may be required for the due discharge of any duties as such Minister."

STATEMENT OF OBJECTS AND REASONS

Even after 47 years of Independence, the Union Territory of Andaman and Nicobar Islands has not been provided with a democratic set-up with a Legislative Assembly for the governance of the affairs of the Union territory Administration. All powers are vested in the Lieutenant Governor and the bureaucracy continues to reign supreme. In the absence of a Legislative Assembly with devolution of powers, the people of the Islands are not enabled to have a sense of belonging and involvement in the developmental activities of the Islands and do not have a say in the utilisation of the funds provided by the Central Government in proper perspective.

The type of Pradesh Council provided to the Union territory with members indirectly elected from panchayats and a single municipality with no powers is not at all befitting to a democratic set-up and devolution of powers. However, the functioning of the Pradesh Council for the last twelve years since its formation in the year 1981 has set the background for constitution of a Legislative Assembly on the pattern of Pondicherry or Delhi The population of the Union territory has crossed three-lakh mark and the literacy percentage is more than 81 per cent and heading towards achieving cent per cent literacy as per norms prescribed by the Government of India.

There have been series of demands from the people of the Union Territory for providing a Legislative Assembly atleast with limited powers. The Island Development Authority had agreed in principle to constitute a Legislative Assembly for the Islands. The Estimates Committee of the Parliament had also recommended for the constitution of a Legislative Assembly for the Union territory. Now, since a three tier Panchayati Raj system is also in the offing in pursuance of the Constitution (Seventy-third) Amendment Act with the idea of devolution of powers at panchayat, block and district levels, it is hightime that a Legislative Assembly was provided to set the tone and direction for the governance of the Union territory Administration on democratic norms.

The Bill seeks to achieve the aforesaid objectives.

NEW DELHI;
December 11, 1993

BASUDEB ACHARIA

FINANCIAL MEMORANDUM

Clause 3 of the Bill provides for setting up of a Legislative Assembly for the Union territory of Andaman and Nicobar Islands, Clauses 7(5), 19 and 43(3) relate to payment of salaries and allowances to the Speaker, the Deputy Speaker, Members of the Legislature and the Ministers. The expenditure on such salaries and allowances and other expenditure of incidental nature such as on the additional staff in the Legislative Assembly and Council of Ministers will be met from the Consolidated Fund of the Union territory of Andaman and Nicobar Islands.

Clause 33 provides for the delimitation of thirty single member territorial constituencies for the proposed Assembly of the Union territory of Andaman and Nicobar Islands. For this purpose, a non-recurring expenditure of about rupees twenty lakhs is likely to be incurred. This expenditure will be met from the Consolidated Fund of India.

The Bill does not involve any other expenditure whether of a recurring or non-recurring nature.

MEMORANDUM REGARDING DELEGATED LEGISLATION

Clause 33 of the Bill empowers the Legislative Assembly of the Union territory of Andaman and Nicobar Islands to make rules, subject to the provisions of this Bill, for regulating its procedure and conduct of its business. It also provides that the Lieutenant Governor shall, after consultation with the Speaker of the Legislative Assembly and with the approval of the President, make rules for securing the completion of financial business, regulating the procedure and conduct of business in the Legislative Assembly in relation to any financial matter or to any Bill for appropriation of monies out of the Consolidated Fund of the Union territory of Andaman and Nicobar Islands and for prohibiting the discussion of or asking any question which affect the discharge of the functions of the Lieutenant Governor in so far as he is required to act in his discretion.

Clause 44 of the Bill empowers the President to make rules regarding allocation of business to Ministers and transaction of such business. It further empowers the Lieutenant Governor to make rules prohibiting the manner of authenticating the orders issued in his name.

Clauses 46(3) and 47(3) of the Bill provide that the Lieutenant Governor may make rules regarding the custody, etc., of the Consolidated Fund of the Union territory of Andaman and Nicobor Islands and the Contingency Fund of the Union territory of Andaman and Nicobar Islands.

Clause 52 of the Bill empowers the President to issue orders for removing any difficulty in giving effect to the provisions of this Bill and in particular in relation to the constitution of the Legislative Assembly.

The matters mentioned above are of a procedural nature and it is difficult to provide for them in detail in the Bill itself. The delegation of legislative power is, therefore, of a normal character.

C. K. JAIN,
Secretary-General.

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